

**United States Department of Labor
Employees' Compensation Appeals Board**

WINSTON D. THOMPSON, Appellant

and

**U.S. POSTAL SERVICE, AIR MAIL CENTER,
Philadelphia, PA, Employer**

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**Docket No. 04-582
Issued: June 9, 2004**

Appearances:

Jeffrey P. Zeelander, Esq., for the appellant

Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chairman

DAVID S. GERSON, Alternate Member

A. PETER KANJORSKI, Alternate Member

JURISDICTION

On December 29, 2003 appellant filed a timely appeal of the February 4, 2003 decision of the Office of Workers' Compensation Programs, which denied appellant's claim on the basis that he failed to establish that his claimed medical condition was causally related to his federal employment. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.¹

ISSUE

The issue is whether appellant established that his claimed right knee condition is causally related to factors of his federal employment.

¹ The record on appeal includes evidence that was submitted after the Office issued its February 4, 2003 decision. The Board is precluded from considering evidence that was not before the Office at the time it rendered its final decision. 20 C.F.R. § 501.2(c).

FACTUAL HISTORY

On October 20, 2002 appellant, then a 47-year-old mail processing equipment mechanic, filed an occupational disease claim for a torn meniscus and a tissue mass in his right knee. Appellant alleged that on July 24, 1997 he was struck in the back by a bulk mail container mail cart, which knocked him to his knees and caused damage to his lower back and right knee.² He claimed that over the years his right knee slowly became worse, and was aggravated by constant climbing of the vertical ladders and kneeling to get mail out from under machinery. Appellant indicated that he climbed vertical metal ladders several times a night to perform his duties and that some nights he might climb ladders as many as 8 to 15 times. He claimed that his knees lined up with the rungs of the ladder and, therefore, his knees made contact with the rungs. Appellant also stated that he frequently got on his knees to search for mail under machinery.

Appellant submitted an undated return to work note from Dr. Joseph Shatouhy, a Board-certified orthopedic surgeon, who indicated that appellant was under his care from April 25, 2002 for a right knee tear of his medial meniscus. He advised that appellant could return to work on April 25, 2002 and that he would need surgery on his right knee, which would disable him for six weeks.

Appellant also submitted an illegibly signed July 27, 1997 return to work note stating that he was to be off work through July 28, 1997. He also submitted a July 29, 1997 return to work note from Dr. James R. Smith, an internist, stating that he was under his care for sciatica and a meniscal tear of the right knee and was unable to return to work until August 4, 1997.

By letter dated December 13, 2002, the Office advised appellant that the evidence submitted was insufficient to establish his claim, and it requested further information including a history of his activities and a rationalized medical statement explaining the causal relationship with his implicated employment factors.

Appellant submitted medical treatment records from Dr. Shatouhy for August 7 and 14, 1997, April 25 and June 3 through October 1, 2002. The August 7 through 14, 1997 records noted a diagnosis of “right knee sprain, rule out associated internal derangement,” and reported a “twisting injury to the right knee on July 24, 1997 when [appellant] was hit by some sort of inside truck that loads mail, hitting him on his low back area [and he] sustained a twisting injury to his right knee.” The notes indicated that appellant’s knee pain was resolving as of August 14, 1997.

The record reported that on April 25, 2002 appellant was diagnosed with a right knee complex tear of the medial meniscus with mild degenerative joint disease of the medial compartment. Dr. Shatouhy noted that appellant had a history of increasing knee pain with walking and working activity, climbing ladders all day long and standing on his feet. He noted that appellant’s knee pain was increased by activity and diminished by rest. Dr. Shatouhy reported his findings upon physical examination of minimal tenderness with palpation over the

² Appellant claimed that a notice was filed at the time of the traumatic injury on July 24, 1997; however, such a claim was not reflected in the present case record.

patellofemoral joint, tenderness localized over the medial aspect of the knee joint and noted painful motion in flexion, internal rotation and adduction with a clicking sensation. He noted that he could not elicit any instability upon testing the collateral ligament or the cruciate ligament, and that there was no palpable mass in the popliteal space. Dr. Shatouhy indicated that the magnetic resonance imaging scan revealed a laxity of the medial collateral ligament and a complex tear of the medial meniscus with degenerative changes.

The medical record revealed that appellant underwent arthroscopic surgery on June 3, 2002 and had a partial medial meniscectomy. Thereafter the medical treatment notes merely addressed appellant's postoperative condition, indicating well-healed portal punctures and no effusion, full range of motion, and, on August 6, 2002, swelling of the prepatellar bursa. On August 6, 2002 Dr. Shatouhy diagnosed right knee prepatellar traumatic bursitis, but noted that the knee was well healed.

By decision dated February 4, 2003, the Office rejected appellant's occupational illness claim finding that the medical evidence submitted did not provide an opinion from his physician on the cause of his current right knee condition. The Office found that the medical treatment notes did not provide any opinion relating his current right knee condition to any current factors of his employment or to the 1997 incident.

LEGAL PRECEDENT

In order to establish that an injury was sustained in the performance of duty, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.³ Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.⁴

ANALYSIS

Appellant submitted medical evidence which diagnosed his condition as a tear of his medial meniscus in the right knee which he alleged that it occurred due to frequent ladder climbing, hitting his knees on the rungs of the ladder, and kneeling, or being on his knees while searching for mail under machinery. However, he has failed to submit rationalized medical evidence that discussed the causal relationship of his condition to specific factors of his employment. The only medical evidence appellant submitted in this case, besides several return

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ *See Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant. *Victor J. Woodhams*, *supra* note 3. Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and claimant's specific employment factors. *Id.*

to work certificates, was the series of medical treatment notes from Dr. Shatouhy, which reported his right knee pain symptoms and detailed his treatment. As far as a history of injury was concerned, Dr. Shatouhy merely reported appellant's allegations of activity-related worsening of his right knee condition. Dr. Shatouhy merely stated that appellant had knee pain that worsened with activity, and eased with rest, but he did not causally relate it to anything in appellant's current employment or anything that happened in 1997.

Therefore, this medical evidence is insufficient to establish that appellant had an employment-related right knee condition.

CONCLUSION

Appellant has not submitted rationalized medical evidence sufficient to establish that he sustained a right knee condition, causally related to factors of his employment.

ORDER

IT IS HEREBY ORDERED THAT the February 4, 2003 decision of the Office of Workers' Compensation Programs is affirmed

Issued: June 9, 2004
Washington, DC

Alec J. Koromilas
Chairman

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member